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JASON L. BECRAFT,)
)
Appellant-Defendant,)
)
vs.) No. 18A02-0805-CR-403
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE DELAWARE CIRCUIT COURT
The Honorable Marianne L. Vorhees, Judge
Cause No. 18C01-0712-CF-76

NOVEMBER 25, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

HOFFMAN, Senior Judge

Jason Becraft appeals the sentence imposed after he pleaded guilty to two counts of Class B felony armed robbery. We affirm.

The sole issue for our review is whether the trial court erred in sentencing Becraft.

In December 1997, the State charged twenty-three-year-old Becraft with three counts of Class B felony armed robbery after he robbed three different gas stations while armed with a gun. In February 1998, Becraft pleaded guilty to two of the offenses in exchange for the State dropping the third count. After a sentencing hearing, the trial court issued a written sentencing order that provides in relevant part as follows:

The Court would note that the aggravating circumstances outweigh the mitigating circumstances. The aggravating circumstances are as follows: the Defendant has recently violated the conditions of probation, the Defendant is on supervised probation from Marion County for robbery . . . , the violation of probation was substantial, the violent nature for the violation of probation, the violation of probation was a crime, the conduct was the same as that for which the Defendant was originally sentenced; the Defendant has a lengthy history of criminal and delinquent activity, the pattern of prior crimes, the number of prior crimes, the seriousness of prior crimes, prior criminal charges have resulted in dismissal for reasons other than lack of evidence, the Defendant's age at the time of prior crimes, the length of time that has elapsed since the Defendant's last offenses; the Defendant is in need of correctional or rehabilitative treatment that can best be provided by his commitment to a penal facility, there were prior attempts at rehabilitation through Juvenile Probation, Adult Probation and the Department of Mental Health that have failed, there were prior attempts at correctional treatment through Indiana Boys School and the Indiana Department of Corrections, the Defendant has not voluntarily attempted any rehabilitative treatment; imposition of a reduced sentence would depreciate the seriousness of the crime, the crime required the Defendant to confront the victim, the property of the victims was injured by the crime; the victims recommend aggravation of the sentence, all of the victims recommend the maximum possible executed sentence.

Appellant's App. at 64-65.

The trial court sentenced Becraft to twenty years for each of the two counts, sentences to run consecutively to each other as well as consecutively to a sentence imposed for a Marion County robbery. Becraft appeals his sentence.

At the outset we note that because the crimes in this case occurred before the April 25, 2005, amendments to the sentencing statutes, we review Becraft's sentence under the presumptive sentencing scheme. *See Gutermuth v. State*, 868 N.E.2d 427, 432, n. 4 (Ind. 2007). Under the presumptive scheme, sentencing determinations are within the trial court's discretion. *Padgett v. State*, 875 N.E.2d 310, 315 (Ind. Ct. App. 2007), *trans. denied*. A sentence will be reversed only upon a showing of abuse of discretion. *Loyd v. State*, 787 N.E.2d 953, 960 (Ind. Ct. App. 2003). The trial court's sentencing discretion includes the determination of whether to increase presumptive penalties, impose consecutive sentences for multiple offenses, or both. *Haggard v. State*, 771 N.E.2d 668, 676 (Ind. Ct. App. 2002), *trans. denied*.

In so doing, the court determines which aggravating and mitigating circumstances to consider, and is solely responsible for determining the weight to accord each of these factors. *Loyd*, 787 N.E.2d at 960. The sentencing statement must: 1) identify significant aggravating and mitigating circumstances; 2) state the specific reason why each circumstance is aggravating and mitigating; and 3) demonstrate that the aggravators outweigh the mitigators. *Id.* We examine both the written sentencing order and the trial court's comments at the sentencing hearing to determine whether the trial court adequately explained the reasons for the sentence. *Id.*

Here, Becraft first contends that the trial court “fail[ed] to present a reasoned sentencing statement.” Appellant’s Br. at 9. However, our review of the trial court’s written order as set forth above reveals that the court properly identified significant aggravating circumstances, stated the specific reasons why each circumstance was aggravating, and demonstrated that the aggravators outweighed the mitigators. We therefore find no error.

Becraft also argues that the trial court overlooked certain mitigating circumstances. A finding of mitigating circumstances, like sentencing decisions in general, lies within the trial court’s discretion. *Wilkie v. State*, 813 N.E.2d 794, 798 (Ind. Ct. App. 2004), *trans. denied*. When a defendant alleges that the trial court failed to identify or find a mitigating circumstance, the defendant must establish that the mitigating evidence is both significant and clearly supported by the record. *Hillenburg v. State*, 777 N.E.2d 99, 109 (Ind. Ct. App. 2002), *trans. denied*. The trial court is not required to make an affirmative finding negating each potentially mitigating circumstance. *Id.*

Becraft first contends that the trial court improperly failed to consider his remorse as a mitigating factor. Substantial deference must be given to a trial court’s evaluation of remorse. *Corrales v. State*, 815 N.E.2d 1023, 1025 (Ind. Ct. App. 2004). The trial court, which has the ability to directly observe the defendant and listen to the tenor of his voice, is in the best position to determine whether the remorse is genuine. *Id.* Becraft’s mere reference to his statement articulating his remorse is insufficient to establish an abuse of discretion. *See id.*

Becraft also argues that the trial court failed to consider his guilty plea as a mitigating factor. However, a guilty plea does not automatically amount to a significant mitigating factor. *Sensback v. State*, 720 N.E.2d 1160, 1165 (Ind. 1999). For example, a guilty plea does not rise to the level of significant mitigation where the defendant has received a substantial benefit from the plea or where the evidence against him is such that the decision of plead guilty is merely a pragmatic one. *Wells v. State*, 836 N.E.2d 475, 479 (Ind. Ct. App. 2005), *trans. denied*. Here, the State dismissed a B felony in exchange for Becraft's guilty plea. In light of this substantial benefit to Becraft, we find no error in the trial court's failure to consider this factor to be mitigating.

Lastly, Becraft appears to contend that the trial court erred in enhancing his sentences and ordering them to run consecutively. The trial court may use the same aggravating factors to both enhance presumptive sentences and to justify consecutive ones. *Price v. State*, 725 N.E.2d 82, 86 (Ind. 2000).

Here, the trial court found several aggravating factors, including Becraft's extensive criminal history. Specifically, Becraft's history began at age nine and includes four juvenile adjudications for theft, battery, and child molesting, as well as three adult felony convictions for theft, robbery, and residential entry. Becraft has had prior probation violations and has previously served time in the Indiana Department of Correction. He was on probation at the time he committed the armed robberies in this case. This extensive criminal history supports Becraft's enhanced and consecutive sentences. The trial court did not err in sentencing Becraft.

Affirmed.

BAKER, C.J., and ROBB, J., concur.